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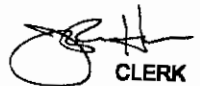
JUL 28 2010

CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

DARVEL E. SEVER,   )   CASE NO. _CIV 10-5058_
)
          Plaintiff(s),   )
)
vs.   )
)
LINCOLN NATIONAL LIFE INSURANCE   )
COMPANY,   )
)
          Defendant.   )

COMPLAINT

PARTIES AND JURISDICTION

1.   Darvel E. Sever is a former employee of Farmers Elevator Company ("Farmers"),

and is a citizen of Ziebach County, South Dakota.

2.   Jefferson Pilot Financial Insurance Company ("Jefferson") issued a group

disability insurance policy to Farmers Elevator Company during Sever's employment there,

which covered Sever.

3.   Lincoln National Life Insurance Company ("Lincoln") merged with Jefferson on

July 2, 2007, making Lincoln responsible for all of Jefferson's legal obligations.

4.   The policy is part of an ERISA plan.

5.   Lincoln is not incorporated in South Dakota, nor does it have its principal place of

business in South Dakota.

6.   The amount in controversy exceeds $75,000, exclusive of interest and costs.

7.   This court has jurisdiction under 29 U.S.C. § 1132(a) and 28 U.S.C. § 1331, and

diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

CAUSE OF ACTION – ERISA

8.   At all pertinent times, Sever has been disabled within the meaning of the policy.

9.   Sever is entitled to disability benefits under the policy.

10.   Lincoln violated ERISA by wrongfully denying Sever benefits under the policy.

11.   Sever has exhausted his remedies under the policy.

WHEREFORE, PLAINTIFF PRAYS:

1.   For recovery of benefits due under the terms of the plan, to enforce his rights

under the terms of the plan, and to clarify his rights to future benefits under the terms of the plan;

2.   For reasonable attorney's fees and costs; and

3.   For such other and further relief as the Court deems just.

Dated this _27_ day of July, 2010.

JULIUS & SIMPSON, L.L.P.

By:_____

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